



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1501, 1505, 1516, 1528, 1529, 1532 and 1552

[EPA-HQ-OARM-2015-0799; FRL 9945-66-OARM]

Environmental Protection Agency Acquisition Regulation;

General, Publicizing Contract Actions, Types of Contracts, Bonds and Insurance, Taxes, Contract Financing, Solicitation Provisions and Contract Clauses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a final rule to make administrative changes to the Environmental Protection Agency Acquisition Regulation (EPAAR). EPA does not anticipate any adverse comments.

DATES: This rule is effective on [insert date 60 days after date of publication in the Federal Register] without further action, unless EPA receives adverse comment by [insert date 30 days after date of publication in the Federal Register]. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OARM-2015-0799, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose

disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Julianne Odend'hal, Policy, Training, and Oversight Division, Acquisition Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington DC 20460; telephone number: (202) 564-5218; email address: odend'hal.julianne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is EPA Using a Direct Final Rule?

EPA is publishing this rule without a prior proposed rule because EPA views this as a noncontroversial action and anticipates no adverse comment. EPAAR Parts 1501, 1505, 1516, 1528, 1529, 1532, and 1552 are being amended to make administrative changes to the EPAAR. If EPA receives adverse comment, a timely withdrawal will be published in the Federal Register informing the public that the rule will not take effect. Any parties interested in commenting must do so at this time.

II. Does This Action Apply to Me?

The EPAAR applies to contractors who have a contract with the EPA.

III. What Should I Consider as I Prepare My Comments for EPA?

A. *Submitting CBI.* Do not submit this information to EPA through

<http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI, and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

IV. Background

EPAAR Parts 1501, 1505, 1516, 1528, 1529, 1532, and 1552 are being amended to make administrative changes.

V. Final Rule

This direct final rule makes the following changes: (1) corrects references in EPAAR 1501.370 to read “1511.011-70 and 1511.011-72” instead of “1510.011-70 and 1510.011-72” and “1552.211-72” instead of “1552.210-72”; (2) corrects EPAAR 1505.203(a) to read “Government Point of Entry (GPE)” instead of “Commerce Business Daily (CBD)”; (3) corrects reference in EPAAR 1516.301-70 to read “1552.211-73” instead of “1552.212-70”; (4) deletes “(SEP 1995)” in EPAAR 1516.406(b); (5) corrects the title of EPAAR Part 1528 to read “Bonds and Insurance” instead of “Bonds of Insurance”; (6) removes “EPAAR Subpart 1529.4-Contract Clauses, 1529.401 Domestic contracts, 1529.401-70 [Reserved]”; (7) corrects EPAAR 1532.908 to read “non-commercial time and materials” instead of “fixed rate”; (8) corrects EPAAR 1552.211-78 to read “Contracting Officer’s Representative (COR)” instead of “Project Officer”; (9) corrects the web address in EPAAR 1552.211-79(d) to read “<http://www2.epa.gov/irmpoli8/current-information-directives>” instead of “<http://wpa.gov/docs/irmpoli8/policies/index.html>”; (10) corrects the prescription in EPAAR 1552.216-70 to read “1516.406(a)” instead of “1516.405(a)”; (11) corrects the date in the clause title in EPAAR 1552.216-72 to read “(JUL 2014)” instead of “(__ 2014)”; (12) corrects the reference in the prescription in EPAAR 1552.216-75 to read “1516.406(b)” instead of

“1516.405(b)”;

(13) corrects the reference in the prescription in EPAAR 1552.216-77 to read “1516.406(c)” instead of “1515.406(c)”;

(14) corrects the reference in the prescription in EPAAR 1552.216-78 to read “1516.406(c)” instead of “1515.406(c)”;

(15) corrects the reference in the prescription in EPAAR 1552.216-79 to read “1516.406(c)” instead of “1515.406(c)”;

(16) corrects EPAAR 1552.232-70 Alternate I prescription to read “non-commercial time and materials” instead of “fixed rate”;

(17) increases the number of fill-in lines in paragraph (a) of EPAAR clause 1552.237-72 from two to 15; and

(18) corrects the EPAAR 1552.242-70 prescription to add “and non-commercial time and materials” after “cost-reimbursement.”

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small

entities subject to the rule. This action amends EPAAR Parts 1501, 1505, 1516, 1528, 1529, 1532, and 1552 to make administrative changes. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this action. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communication between EPA and Tribal governments, EPA specifically solicits additional comment on this rule from Tribal officials.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation.

This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

K. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to

each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 48 CFR Parts 1501, 1505, 1516, 1528, 1529, 1532, and 1552

Government procurement.

Dated: May 2, 2016.

John R. Bashista,

Director, Office of Acquisition Management.

For the reasons stated in the preamble, 48 CFR parts 1501, 1505, 1516, 1528, 1529, 1532 and 1552 are amended as set forth below:

PART 1501—GENERAL

1. The authority citation for part 1501 continues to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390 as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418B.

1501.370 [Amended]

2. Amend section 1501.370, table, by removing the text “1510.011-70 and 1510.011-72” and adding the text “1511.011-70 and 1511.011-72” in its place; and removing the text “1552.210-72” and adding the text “1552.211-72” in its place.

PART 1505—PUBLICIZING CONTRACT ACTIONS

3. The authority citation for part 1505 is revised to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b.

1505.203 [Amended]

4. Amend section 1505.203, paragraph (a), by removing the words “Commerce Business Daily (CBD)” and adding the words “Government Point of Entry (GPE)” in their place.

PART 1516--TYPES OF CONTRACTS

5. The authority citation for part 1516 is revised to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b.

1516.301-70 [Amended]

6. Amend section 1516.301-70 by removing the text “1552.212-70” and adding text “1552.211-73” in its place.

1516.406 [Amended]

7. Amend 1516.406, paragraph (b) by removing the text “(SEP 1995)”.

PART 1528—BONDS AND INSURANCE

8. The authority citation for part 1528 is added to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b.

9. The part 1528 heading is revised to read as set forth above.

PART 1529—TAXES

10. The authority citation for part 1529 is revised to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b.

Subpart 1529.4 [Removed and Reserved]

11. Remove and reserve subpart 1529.4.

PART 1532—CONTRACT FINANCING

12. The authority citation for part 1532 is revised to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b.

1532.908 [Amended]

13. Amend section 1532.908 by removing the words “fixed-rate” and adding the words “non-commercial time and materials” in its place.

PART 1552—SOLICATION PROVISIONS AND CONTRACT CLAUSES

14. The authority citation for part 1552 continues to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b.

1552.211-78 [Amended]

15. Amend section 1552.211-78 by removing the words “EPA Project Officer” and adding the words “EPA Contracting Officer’s Representative (COR)” in its place and removing the words “EPA Project Officer’s” and adding “COR’s” in its place; and removing the text “(JUL 2015)” and adding the text “(JUL 2016)” in its place.

1552.211-79 [Amended]

16. Amend section 1552.211-79, paragraph (d), by removing the text “<http://epa.gov/docs/irmpoli8/policies/index/html>” and adding the text “<http://www2.epa.gov/irmpoli8/current-information-directives>” in its place; and adding, after the clause heading, the text “(JUL 2016)”.

1552.216-70 [Amended]

17. Amend the introductory text of section 1552.216-70 by removing the text “1516.405(a)” and adding the text “1516.406(a)” in its place.

1552.216-72 [Amended]

18. Amend section 1552.216-72 by removing the text “(____ 2014)” and adding the text “(JUL 2014)” in its place.

1552.216-75 [Amended]

19. Amend the introductory text of section 1552.216-75 by removing the text “1516.405(b)” and adding the text “1516.406(b)” in its place.

1552.216-77 [Amended]

20. Amend the introductory text of section 1552.216-77 by removing the text “1515.406(c)” and adding the text “1516.406(c)” in its place.

1552.216-78 [Amended]

21. Amend the introductory text of section 1552.216-78 by removing the text “1515.406(c)” and adding the text “1516.406(c)” in its place.

1552.216-79 [Amended]

22. Amend the introductory text of section 1552.216-79 by removing the text “1515.406(c)” and adding the text “1516.406(c)” in its place.

1552.232-70 [Amended]

23. Amend section 1552.232-70, in the introductory text of Alternate 1, by removing the words “fixed-rate” and adding the words “non-commercial time and materials” in its place.

1552.237-72 [Amended]

24. Amend section 1552.237-72, paragraph (a), by adding 13 horizontal lines below the existing

two horizontal lines.

25. Amend section 1552.242-70 by revising the introductory text to read as follows:

1552.242-70 Indirect costs.

As prescribed in 1542.705-70, insert the following clause in all cost-reimbursement and non-commercial time and materials type contracts. If ceilings are not being established, enter “not applicable” in paragraph (c) of the clause.

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[FR Doc. 2016-11838 Filed: 5/18/2016 8:45 am; Publication Date: 5/19/2016]